

Rebekah Morgan – Planning Officer  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

19 January 2021

Your reference: 16/00472/OUT

Our reference: GBMS

Dear Rebekah,

**TOWN AND COUNTRY PLANNING ACT 1990**

**Applicant: Grundon Waste Management Ltd and Cemex UK**

**Site: S Grundon Services Ltd, Merton Street, Banbury OX16 4RN**

I refer to your letter dated 26<sup>th</sup> August and the further information subsequently received on 17 September 2020.

We are still awaiting some input on the overheating point but, notwithstanding that, I can now give you a full response on all the other points.

**Overall Comments**

My client is extremely disappointed that the decision has been taken at management level not to support their application in its current form. The fact that it had previously been recommended for approval and nearly got to Committee on two occasions underlines how borderline the balance of judgement is in this case and, although there was an eleventh-hour objection from Thames Water (the timing of which is also a cause for concern) the fact that the application was offered up for general re-consultation when nothing had in actuality changed with the proposals between the Committee recommendation and the arrival of a new case officer calls into question the Council's internal processes.

We had previously addressed every concern as it was raised despite a number of previous officer changes. When Bob Duxbury eventually returned to his role and took on the finalisation of the report before he then retired, we had narrowed down the residual issues to noise and developer contributions. He had taken on the task of brokering the politics around the developer contributions between the County and District Councils but fundamentally accepted the viability work that had been done and subjected to scrutiny by your independent advisor. The form and layout of the development had been further justified in a document – *Master Plan Development – Design Overview – Justification for proposed Site Layout – May 2019*.

Many of the comments in your letter seem to be predicated on the assumption that there would be a better layout that could avoid the perceived problems with the current proposal. It is our belief, based on the thorough and sustained work we have done on this site over the past four years, that there is no alternative way of delivering an acceptable housing development at scale than the deployment of apartments in blocks with the orientation proposed. The current proposal is a function of the site constraints and the need to deliver a viable development. The number of units proposed is in excess of the Local Plan policy but, as we have shown, the development is only viable at 200 units if the level of developer contributions and affordable housing is curtailed. We are therefore appealing to you to properly consider all of the evidence that we have already provided as well as the further information supplied with this letter.

## **Further Information**

In response to your concerns we have now received the following technical reports in support of our application:

- Technical Memorandum Ref.M003 from Adrian James Acoustics Ltd - 26 October 2020
- Technical Note from Accon UK – 5 October 2020
- Technical Note Ref.TN002 from Stantec – October 2020
- OCC LLFA SuDS Technical Assessment Pro-forma

We have also undertaken some further research on acoustic barriers and have assembled this into a document entitled Banbury Acoustic Barrier Details.

All the above are supplied with this letter but we will provide the following in due course:

- Technical Note from Method LLP covering a Ventilation Strategy and an Overheating Risk Assessment

## **Noise**

I refer you to the response from Adrian James to the questions raised by your Trevor Dixon. The proposal does not require windows to be unopenable. This would be impractical as each property occupant will want to be in control of their domestic environment. As the above-mentioned technical note explains, purge ventilation is occasionally required and it is perfectly possible that this can be achieved without any significant detriment to residential amenity.

We believe that we have satisfactorily addressed your Environmental Health Officer's questions and we would ask that he is reconsulted on the Technical Note supplied to confirm this. Having waited several months for a response to the last set of responses we would hope that a more timely reply will facilitate speedy closure on these technical points.

The Ventilation Strategy and Overheating Risk Assessment will follow.

## **Odour**

Your letter says that Thames Water are maintaining their objection, but our reading of their comments dated 9<sup>th</sup> July 2020 is that they would accept a conditional approval. We also note from their comments that they evidently have not read the report that was prepared by Accon in response to the earlier objections. Notwithstanding Thames Water's comments and their lack of engagement with our consultant's report, the enclosed Technical Note from Accon explains how we have carried-out an assessment of the issue and this demonstrates that the condition that Thames Water have requested is actually not justified. Odours will not regularly reach the proposed development and, even in adverse weather conditions, the dilution between source and receptor means that there would be no justification for any mitigation of the impact.

## **Highways**

We feel quite strongly that the requirement for a 3m-wide cycleway is too onerous on the development of this site. The layout has already been amended three times in response to OCCs requirements and we would ask that the Local Planning Authority considers the fact that the site is relatively linear. The indicative layout plan already shows a 10.5m-wide corridor for access consisting of a 6.5m carriageway, a 3m-wide shared cycleway/footway and a 1m-wide service strip. If the 3.8m-wide allowance for an acoustic barrier is factored-in, there would be a 14.3m-wide strip, widening at the bends, along the Southern perimeter of the site. A further 2 metres added to this corridor would diminish the developable areas of the site shown on drawing no.PL 112C unacceptably. The layout we have shown would not work and the knock-on impact on the development potential and viability would be very detrimental. A

balance needs to be struck if the development of this site is to be brought forward in the plan period. We ask that in considering the planning balance, the provision of a 3m-wide shared surface for the cycleway/footway, as shown, is accepted notwithstanding OCC's preference for a segregated route.

### **Visual Impact and Maintenance of the Bund**

The Acoustic Barrier details we have provided with this letter show a suitable system that could be adopted on this site. The footprint of the barrier would be 1.8m-wide at the base and the strip of land indicated for the barrier is 3.8m wide. This allows for a 1m-wide maintenance strip on either side. Maintenance requirements would be very low if the right plants are used and could be carried out infrequently with using a ladder and long-arm trimmer. A Management Company would be set up to maintain the feature and there would be no need for the Council to adopt it for maintenance purposes.

In visual terms the proposed barrier would be an enhancement and introduce greenery with the characteristics of a tall hedge. The planting will soften the visual appearance of the barrier and there should be positive benefit to the landscape appearance of the site contrary to the assertion that it would be visually harmful and physically oppressive.

The precise details of this barrier can be secured under the Reserved Matters and all that is required at this stage is to show how it could be done. We believe that the information provided more than satisfies that requirement.

In terms of the landscape officer's concerns about connections between the site and adjacent land, we do not understand the point. A quick visit to the site will show how easy it would be to effect those linkages without recourse to more detailed surveys or reports.

### **Drainage**

Stantec have provided the above-mentioned Surface Water Drainage Strategy which demonstrates that the proposed development can withstand a 1:100-year event and all necessary measures to address this issue can be secured through reserved matters and the imposition of appropriate planning conditions. The strategy is supported by the completed OCC proforma containing all of the relevant data. We would be grateful if you could consult the LLFA again and ensure a dialogue between specialists can take place if there are any residual issues or need for clarification.

### **S106 matters**

It has long been acknowledged by your officers that the development would not be able to sustain the full quota of developer contributions and affordable housing that policy seeks. In March 2019, your independent consultants Highgate Land and Development concluded that *"...the provision of affordable housing is not viable, but the scheme can meet the policy compliant level of planning contributions of £2,108,789."* The discussion moved on from there and the 15% affordable mentioned in your letter to whether a lesser proportion of affordable housing could be provided if developer contributions were reduced. It was agreed between us and Bob Duxbury that the heads of terms for the Developer Contributions would be based on the provision of some affordable housing (potentially 9%) but the precise division of the residual developer contributions had not been agreed, pending discussions with the County Council and key members. The situation is summarised well in his e-mail dated 10 April 2019 which I would urge you to read as it provides a useful reference point for the officers' position on the planning application at that point.

## **Moving Forward**

We fully accept that the starting point for assessing any planning application is the Development Plan and we have been cognisant of this throughout the planning process from our pre-application consultations in September 2014 and August 2015 to the present day.

We feel that the last six years of negotiation and discussion cannot be easily set aside in favour of a clean slate. The lengthy and expensive process that my clients have been engaged in has been iterative and the present scheme represents something that has evolved in response to many inputs from your Council.

Your commitment to seeing residential development on this site is welcomed but it is small comfort to my client if they are faced with the prospect of starting again from first principles. We believe that the scheme before you is based on sound design principles as set out in our supporting documentation.

We still have to specifically address your concerns about overheating within the flats but we would ask that you undertake the targeted consultation that you mention in your letter and then we have another discussion pending a possible referral to Committee. We obviously want to address your concerns and secure a favourable recommendation and we are optimistic that we can do that if there is a will on both sides.

I would ask that we continue to work with the current planning application and towards that favourable recommendation.

I look forward to hearing from you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mark Berry', with a large, stylized flourish at the end.

**Mark Berry**

**BA (Hons), MRTPI, Dip DBE, DMS**

**Planning Consultant**

[markberry@jssaarchitects.com](mailto:markberry@jssaarchitects.com)

***For and on behalf of JSA Planning***